

EVIDENCE AGAINST SOCIALISTS ADMITTED IN FACE OF BITTER PROTESTS BY COUNSEL; RADICAL SPEECH BY CLAESSENS PUT IN

SOCIALIST PLEDGES READ

Prove Assemblymen Are
Bound to Resign
When Ordered.

RADICAL BOOKS PRODUCED

Opposing Counsel in Continual
Clash at Hearing Over Ad-
mission of Evidence.

PREPARE FOR COURT TRIAL

Socialist Lawyers Expect Ad-
verse Decision—Hearing Ad-
journed Until Tuesday.

Special to The New York Times.

ALBANY, Jan. 22.—A speech delivered last November by August Claessens, one of the suspended Socialist Assemblymen, incendiary and full of invective against the Government and abuse of the American people, was read today into the record at the continuation of the hearing before the Assembly Judiciary Committee to determine whether the five Socialists shall be restored to membership.

At the close of the day, despite objections from the Socialists, the hearing was adjourned until next Tuesday.

The mass of evidence introduced included copies of the national and New York State constitutions of the Socialist Party of America, the by-laws of the New York Local with which two of the defendants, Assemblymen Claessens and Louis Waldman, are affiliated, a couple of radical pamphlets and the membership cards of Claessens of New York and Samuel Orr and Samuel E. Dewitt of the Bronx.

Seven witnesses were examined, including Secretary of State Hugo, Executive Secretaries Julius Gerber of the New York Local and Miss Anna Stern of the Bronx Local of the Socialist Party, Ezra L. Kauffmann, a Rochester, special policeman; Charles M. Robinton, a special agent of the Department of Justice; William F. Smart, an official stenographer, and William Tallman, Deputy Clerk of the United States District Court.

While the Claessens speech was being read into the record Chairman Martin had occasion for the first time to rebuke sternly spectators for applauding some of the most incendiary utterances embodied in the address. He threatened to have the chamber cleared if the offense was repeated.

According to Claessens, an attempt had been made to count him out on Election Day. He was quoted from a stenographic record as saying he did not expect redress from the courts, for the Judges "held their seats by just the same frauds," and a "great many of them are receivers of stolen goods." A reference to the Government said that if it, as he sought to convey, "rests upon thievery and fraud, then you have no Government. You might just as well refer to this nation as the United States of Thieves."

One of the utterances attributed to him which the lawyers for the committee emphasized was:

"I warn you, comrades, that we are not going to lay down on the job. I have spoken around the street corners and I have told my constituents the same of such a condition. I have likewise told any person who still remains a Democrat or a Republican: I do not care how honest and clean you may be, you are an accomplice of a crook. You have absolutely no right to democracy. You have absolutely no right to speak of an American Republic; there is no American Republic. It is merely one huge institution based upon fraud—God Almighty, if men and women cannot cast their ballots, if they cannot get counted their own ideas, what is the sense of this whole thing?"

Expect Adverse Verdict.

The charge embodied in the suspension resolution that the Socialist State Constitution required every Socialist candidate to leave with the executive secretary of his organization a blank resignation before obtaining his nomination, was borne out by what was read into the record from one document. Morris Hillquit tried hard to get on the record testimony from Mr. Gerber, to show that this provision was a dead letter and had not been complied with by the five Socialist Assemblymen, but was blocked by an objection which Chairman Martin sustained.

Many objections were made by the Socialist lawyers to the evidence offered but invariably they were overruled by the Chairman, until both Mr. Hillquit and Seymour Stedman declared that the Supreme Court rules of procedure adopted by the committee and legal precedents in every instance were ruthlessly swept aside.

The conduct of the investigation brought the comment, not only from these lawyers but from others in the Assembly Chambers, that it established a new record for steam roller tactics and disregard for the precedent and practice usually followed in judicial proceedings. Mr. Hillquit, asserting that the rulings of Chairman Martin lacked every semblance of justification, again

made threats that, with his clients and counsel associated with him, he would withdraw, unless more fairness was shown.

After sitting through the proceedings today, the five Socialist Assemblymen were a unit in declaring that they harbored no illusions regarding the outcome. Their counsel, according to a report tonight, are shaping their defense solely with an object of taking the proceedings into the courts in the belief that the Assembly, where Speaker Sweet is backed by a substantial and reliable majority, has pronounced an adverse verdict.

Counsel Clash on Issues.

When the morning session began Chairman Martin consented to having entered on the record a statement by Assemblyman William S. Evans of the Bronx dissenting from a ruling by the committee denying the motion of the Socialist lawyers to dismiss the proceedings on the ground that there was neither constitutional nor statutory warrant for it.

Mr. Evans is one of the Democratic members of the Judiciary Committee and one of the two Assemblymen who voted against suspension. The statement read in part:

"If these five Socialist Assemblymen are disloyal, traitors, spies or enemies, the responsibility for their presence here is the people's, not the Assembly's. The duty and power to disqualify them on those grounds is the people's, and not ours. For the people never delegated such power to the Assembly.

I deem these principles of the most vital importance to the existence and survival of representative government. The gravity of the charge against the five Socialist Assemblymen must not be allowed to overshadow these principles.

"The constituencies of the five men under investigation elected them with full knowledge of the present charges against them, in my belief. I know that to be the fact in at least two instances, that of Mr. Orr and Mr. Dewitt. I have personally charged them with this precise disloyalty before their constituencies during the last two years. Mr. Fertig and Mr. Mullen, former members of the House, likewise accused them before their constituencies. Yet they have been returned to us and we must, in law, seat them."

Before the taking of testimony began Mr. Hillquit offered to read certain admissions on the record "to save time," but Mr. Stanchfield entered an objection and was sustained.

There was a further plea by Mr. Hillquit that in accordance with the rules of evidence of the Supreme Court, which have been adopted by the committee, it was customary to follow this practice.

"I maintain my right to be tried on issues only and issues framed," he said. "If we are here for the purpose of trying the merits of the charges before you I can conceive of no possible objection to framing issues. If we are here for the purpose of making it appear that there is a formidable array of witnesses to testify to facts which are of common, every-day knowledge and which we are ready to admit."

He was overruled, and Julius Gerber, Executive Secretary of the Manhattan local of the Socialist Party, was called as the first witness. He had brought a mass of documents and printed matter, including a copy of the national constitution of the Socialist Party and the platform promulgated by it in 1917. Extracts from both and from the State constitution of the party also were read into the record by Mr. Stanchfield, who examined the witness.

Socialist Oaths Read.

The national and State constitutions were put in evidence to show that citizenship was not a necessary qualification for membership in the party councils which dictate policies; that no one can be a candidate in the primaries without the consent of the city, county or State organizations, according to the nature of the office; that in legislative bodies Socialists must vote as a unit on measures according to the stand taken by the party platform and that in making application for membership they must subscribe to the following pledge:

"In all my political actions while a member of the Socialist Party I agree to be guided by the constitution and platform of that party."

Another portion of the national constitution on which Mr. Stanchfield laid emphasis was Section 6, which reads:

"Any member of the Socialist Party elected to an office who shall in any way vote to appropriate moneys for military or naval purposes, or war, shall be expelled from the party."

Mr. Stanchfield read several extracts from the State constitution showing that under penalty of expulsion Socialists, while acting as delegates to an official party convention or when elected to public office must "abide and carry out such instructions as he may have received from the dues paying party organization, or as prescribed by the State or national constitutions," and that "all candidates for public office or appointees to public office selected by the dues paying membership shall sign the final resignation blank before nomination is made official or appointment is made final." The form of resignation he read as follows:

"Recognizing the Socialist Party as a purely democratic organization in which the source and seat of all powers lies in the dues-paying membership, as an elected (or appointed) official of the party it shall be my duty to ascertain and abide by the wish of the majority of the dues-paying members of my local or political subdivision.

"To the end that my official acts may at all times be under the direction and control of the party membership, I hereby sign and place in the hands of Local — my resignation from the office to which I may be elected (or appointed), such resignation to become effective whenever a majority of the local shall so vote.

"I sign this resignation voluntarily as a condition of receiving said nomination (or appointment), and pledge my honor as a man, a Socialist, to abide by it."

Another section read by Mr. Stanchfield was:

"If said local or county organization shall disapprove of any proposed appointment, it may submit its choice of appointment to the said elected official," and "in case of further disagreement the local or county organization and the elected officials have the right to appeal to the State Executive Committee."

A copy of the by-laws governing the New York local, produced by Mr. Gerber, showed that "any person 18 years or over who agrees to abide by the national platform and constitution and resolutions of the Socialist Party may become a member of the party, regardless of whether a citizen or not."

Rulings Against Hillquit.

The membership cards of August Claessens, Samuel Orr and Samuel A. Dewitt, three of the suspended Assemblymen, were offered in evidence. The membership cards of Charles Solomon and Louis Waldman, Mr. Gerber said, he had not been able to find, but Mr. Hillquit admitted for the record that they had signed cards similar to those in evidence.

Answering questions from Mr. Hillquit Mr. Gerber said he had been a member of the Socialist Party since its organization in 1899 and had attended every National Convention of the party since he joined it as a delegate. He had attended all State Conventions as a delegate. He is and had been for years a member of the State Committee.

"As Executive Secretary of the Socialist organization in New York County, which I understand aggregates twelve years, have you ever received from any candidate nominated for office in the Socialist Party a resignation in advance?" asked Mr. Hillquit.

"Never," said the witness.

Mr. Stanchfield objected and was sustained.

Mr. Hillquit protested, but without avail, that the contention had been made that the five Socialist Assemblymen had filed such resignations and that this was part of the charges against them.

"What I propose to do," he said, "is to show by this witness, the most competent upon the subject, that this provision of the State Constitution has been a dead letter since its inception and that none of these five men has ever filed such a resignation."

Mr. Hillquit sought to get testimony from Mr. Gerber to show that the Socialist State Constitution antedated the enactment of the direct primary law and that since this became a statute the Socialist Party had abided by its provisions when in conflict with their own constitution.

Mr. Stanchfield again objected and was sustained.

"Under the rulings of the chair," protested Mr. Hillquit, "I do not know how we can proceed with anything like the semblance of the proceedings in the Supreme Court as the rules provide. Mr. Stanchfield has tried to prove by application that the Socialist Party is not a political but an invisible, secret organization, out of the mouth of this witness, I submit that it is my right to

get his full testimony before he leaves the stand."

"You can introduce affirmative evidence to prove your contention. I am strictly within the rule—that is, the rule we use above the Bronx."

Secretary of State Hugo testified that the five Socialists took the oath of office before him without objection or hesitancy.

Socialists Object to Testimony.

At the start of the afternoon session ex-Justice Arthur E. Sutherland of committee counsel asked to call witnesses who had been required to bring books, documents, papers and other records, and to have these records marked for identification and left with the committee. Mr. Hillquit objected.

Such procedure, he contended, would prevent objections to such of the evidence as the Socialists considered immaterial or irrelevant or improperly authenticated, and was contrary to Supreme Court procedure. Assemblymen Evans and Block of the committee dissented from the Chairman's ruling that the papers remain in the committee's custody until it was decided which of them should be placed in evidence.

When Miss Anna Stern, Executive Secretary of the Bronx County Socialist organization, was called Mr. Hillquit told her that she was not compelled to give over any of the papers until they had been offered in evidence.

"This committee would have the right to conduct this entire proceeding in camera," said Mr. Stanchfield. "It could exclude the five Assemblymen, it could exclude their counsel, and the whole proceeding could be conducted to a conclusion in that way. But because we realize that we are going into this case, in the last analysis, to the court of public opinion—the people of the State—we are quite willing that these five men should be represented by counsel and that ordinary rules of evidence, in a general way, should apply."

"The statement of Mr. Stanchfield," retorted Mr. Hillquit, "that the committee is a law unto itself and all powerful and not subject to any review; that counsel for the Assemblymen under charges, and the Assemblymen themselves are here by courtesy or favor, I wish to reply to. As a proposition of physical power I am not finding any fault with it; but I wish to say, and I want it understood, that we do not wish to appear here on sufferance or courtesy or by favor, and that we are here with all the rights of counsel in any court of justice or before any tribunal, or we do not wish to be here."

The discussion was ended by an arrangement suggested by the committee's counsel, to which Mr. Hillquit agreed. Both sides sent a representative into one of the committee rooms and the committee lawyers marked the parts of the documents which they wished to place in evidence and allowed the opposing lawyers to put the balance in evidence.

Ezra L. Kauffmann, a special policeman in Rochester, produced as evidence a book printed in Yiddish, which he had bought from Samuel Miller. Mr. Stanchfield asserted the evidence related to a conspiracy in which the five Assemblymen were involved.

"This is a new thing—that we are now on trial for conspiracy," said Mr. Stedman. "I suppose we will be charged with another offense by tomorrow morning."

Chairman Martin admitted the testimony regarding Miller, and Mr. Hillquit again arose.

"As far as I am concerned," he said, "and I think I speak for my associates, whenever testimony of this sort is called, we shall take absolutely no part in the proceeding and not dignify it by taking part in it. It is as if we were absent."

The book, which was admitted in evidence, turned out to be a pamphlet in red covers, published by the Jewish Socialist Federation of America. It was translated in part by Charles M. Robinson, an agent of the Department of Justice, employed by the Lusk Committee, who was called to the stand. Its title was "The Dictatorship of the Proletariat," and its author was Hall Rogoff. Chairman Martin and Mr. Stedman clashed over an argument following Robinson's admission that a translation of the book was not made from the same copy which was produced in evidence.

Socialist Books as Evidence.

"I want to show that this is not a translation," said Mr. Stedman.

"They both are the same book," replied the Chairman.

Mr. Stanchfield read excerpts from the book.

"Working men cannot depend on peaceful evolution," said one passage. "They must prepare for a revolution and Socialism does not believe in the State. It wants to annihilate it entirely." Another said: "The first aim of the Socialists must be to seize the Government. The State, by whatever means they can succeed in doing this with their rule, must establish the dictatorship of the proletariat. The Bolshevik dictatorship is the bone of the Socialist revolution, and must be established in every country, under all circumstances, when the Socialist revolution is established there."

The Committee Counsel offered in evidence another book entitled "Who are the Bolsheviks?" "Bolshevism is not a new Socialist theory, but the practical carrying out in life of the old Socialist theory," read one extract. Bolshevism is practical Socialism, the Socialism of today, and not of the remote future day. Bolshevism desires to establish Socialism by revolutionary route. "Their object is not only to carry out a social revolution in Russia alone but also in other countries, so they will do the same thing as the Russian proletariat. The more such revolution spreads over other countries, the easier and quicker it will be to establish Socialism."

Robinson, on cross-examination by Mr. Hillquit, admitted that he translated only certain passages of both books. Mr. Hillquit asked if he did not know that the Jewish Socialist Federation printed also books of opposite import to the one submitted. He also brought out the fact that most of the sections quoted were from a chapter entitled "The Opponents of the Dictatorship of the Proletariat," and that the book had another chapter, "The Defenders of the Proletariat."

He read from another chapter: "They held that since the dictatorship of the Proletariat was the exact opposite of democracy, of sacred democracy, therefore the dictatorship of the Proletariat was filthy and unclean."

Claessens Speech Quoted.

"This was marked with blue pencil lines, and then the lines were crossed out. Why did you cross them out?"

"Because I decided not to put that in unless the whole book was translated," Robinson replied.

Mr. Hillquit asked if there was anything in the book which referred to the attitude of the Socialist Party toward Bolshevism. The witness replied that he knew of none.

The speech of Assemblyman Claessens was next introduced by William F. Smart, a stenographer, who said he took it at a meeting of the Socialist Party of New York at Parkview Palace, 110th Street, on Nov. 7. Claessens preceded Santeri Nuorteva, Secretary of a Soviet mission, to whom he referred as "our Ambassador."

Claessens, according to the report of his speech, referred at the outset to the "social revolution." But revolutions in themselves are not necessarily the aim of Socialists. What we Socialists want is more than a change in government. We want a social revolution, which means a complete change in the economic, social, intellectual and moral as well as the physical phases of life.

"We Socialists are social revolutionists; but for some of the detectives that are here, let me tell you that we are really the most peaceful people in the world, so much so that we are pacifists, that we hate the shedding of blood. We believe that hanging and killing never did any good; it has no educating influence."

Claessens, according to the report of his speech, then referred to the "brutality, the bestiality of the great mass of the American people." And took a fling at "the capitalistic press."

With the entrance of Nuorteva, Claessens turned his speech to the last election, when, he charged, they tried to steal the election from him.

"Every cocaine fiend, every tried, every dirty crook, that the Democrats and Republicans could sweep out of the Bowery, they put into the election places in Harlem." He then enumerated instances of alleged fraud. "I tell you my friends," he was quoted as saying, "if we take the situation as it stands now, then we are the dirtiest cowards on the earth. We are going to fight. I do not hope much from the courts, just stand. The courts are elected by such practices. These very Judges hold their seats by just the same fraud. If they are not thieves, a great many of them are receivers of stolen goods, and you can imagine how much justice you can get from this bunch."

"I know some people said yesterday, and I know some of you feel 'to hell with the whole matter of voting; to hell with the whole form of govern-

ment.' If the Government rests upon thievery and fraud, then you have no Government; you might just as well refer to this nation as the United States of thieves; but I am not one of those to become pessimistic. We are here tonight celebrating the second anniversary of the Russian revolution; and, comrades, while the Russians have not had the privilege of voting, if it could be called the privilege in the days of a Czar—they had not themselves what you call a democracy before the Czar; yet our comrades in Russia also were treated like dogs, and hung and sent to Siberia.

"Every dirty trick they used against us here was used against them and only worse. And did they stop? Did it kill their spirit? Our Russian comrades did not say that. They were fighters; and when we are celebrating the second anniversary of the Russian revolution we celebrate the second anniversary of the success of fighting men and women, and if we celebrate that in the highest possible form, not only in our idealism, but in our enthusiasm, then we celebrate it also as martyrs and not as cowards."

"I warn you, comrades, that we are not going to lay down on the job. I have spoken around the street corners, the night before last, and I have told my constituents the shame of such a condition. I have likewise told any person who still remains a Democrat or a Republican: I do not care how honest and clean you may be, you are an accomplice of a crook. You have absolutely no right to democracy, you have absolutely no right to speak of an American republic; there is no American republic. It is merely one huge institution based upon fraud. God Almighty! if the men and women cannot cast their ballots, if they cannot get counted their own ideas, what is the sense of this whole thing?"

"Now, thank goodness, Socialists are not only working along political lines. If we thought for a minute it was merely a dream on our part, a great political controversy until we have a majority of men elected, and then, by merely that majority declare the revolution, if any of you smoke that pipe dream, if that is the quality of opium you are puffing now, give it up, give it up. Yet I do not want any of you to go to the opposite extreme. The economic movement is also the movement by which Socialists are marching on; but the economic movement also has its shortcomings; and it also meets the cossacks and the brutal forces of the capitalist power in every way."

"But there are other things we want. We are working, not merely upon the industrial, upon the political, not merely in the co-operatives, but along the broad lines of education, and I do not know, and you do not know, and there is today nobody in this room that knows how the social revolution will be accomplished in this country. At least, the luck that the Russians have, I doubt whether we will have it for ten million men to walk home, leaving their officers in the sewers, walk home with guns—that is a picnic, that is easy for any revolution."

"But this is a condition that you have not got here. So, under the circumstances, we have to proceed entirely different, and we have also to realize the brute forces against whom, and as such, we have got to use very opportunity we can get."

"We capture one section and move on to the next, until we reach more and more and ultimately realize. Do not get behind, do not let the thing of last Tuesday wear out your nerves. It was mean, it was dirty, it was the lowest, and if that is American—well, then, we are proud to be called non-Americans. The dirty, trashy way—if that gang stands for that—refers to Russia as a country of atrocities, then, I tell you, some day the Russians will have to send missionaries to the United States for the purpose of bringing decency in here."

"My God, when I looked at some of those dope fiends that sat around some of those boards I thought to myself, and newspapers talk about the nationalization of women in Russia. If there was an ounce of truth in your particular, damnable lot you would be the first to take a steamer to go to Russia. The language that those men used at the polling place was absolutely unfit for pigs; and those are the types that we are supposed to believe uphold our American democracy. If it was not a fact that a change was coming we would say: 'To hell with the whole business.' But we are going to the Assembly, and we will tell it to them. There are five of us. Charlie Solomon is one. There are others, and I will go myself into the bargain, and we will tell them something. But we won't waste much time in the Assembly, comrades, talking to that bunch that sit there with stolen property—sitting in their seats—but we will use our position with the Assembly and reach the Henry Dubs and speak to them."

Following the reading of Claessens's speech William Tallman, deputy clerk of the United States District Court in New York, was called. He submitted a copy of the indictment in the case against Scott Nearing and the American Socialist Society. They were marked for identification only.

That ended the submission of evidence for three days, and Chairman Martin announced an adjournment until Tuesday morning at 10:30. Mr. Stedman asked Mr. Stanchfield for some indication as to how long the trial would last. Mr. Sutherland, for the committee, promised to expedite the case, but said he could give no indication as to its duration. He said that the committee's counsel would work tomorrow and Saturday on the preparation of evidence. Chairman Martin said that next week's sessions would continue until Friday and possibly Saturday night.

It was announced this afternoon that Thomas Carmody, Attorney General during the administrations of Governors Dix, Sulzer and Glynn, would be associated with the Attorney General in the future.